

REMARKS/ARGUMENTS

Claims 1-4, 14 and 16-36 are pending in the application. Claims 1, 16, 18, 32, and 36 are amended. The amendments to the claims as indicated herein do not add any new matter to this application. Furthermore, amendments made to the claims as indicated herein have been made to exclusively improve readability and clarity of the claims and not for the purpose of overcoming alleged prior art. Applicant thanks the Examiner for his comments during a 27 August 2008 telephone interview.

With respect to Claims 30 and 31, as discussed with the Examiner during the 27 August 2008, telephone interview, Claim 1 as claimed does not indicate the DVR appending information to the beginning portion of a commercial break as the information is already present in the program segment at the time the DVR receives the program segment. Given the telephone discussion with the Examiner, it is evident that the features of Claims 30 and 31 do not cite that the features in said claims are performed by the DVR by appending information into the beginning portion of individual advertisements. Therefore, Claims 30 and 31 should not be withdrawn from consideration.

I. **CLAIM REJECTIONS--35 U.S.C. § 102**

Claims 1-3, 14, 16, 18 and 32-36 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Zigmond et al. (U.S. Patent No. 6,698,020). This rejection is respectfully traversed.

Claim 1 has been amended as discussed with the Examiner and appears as follows:

1. A process for enhancing viewership of television, comprising:

receiving, by a digital video recorder (DVR), a program segment containing a beginning portion of a commercial break;
displaying the beginning portion of the commercial break in the program segment;
wherein the beginning portion of the commercial break is of a particular length of time and has been authored to provide a teaser to entice a viewer to watch commercials during the commercial break before the viewer causes the DVR to skip through the commercial break; and
pausing playing of the program segment, by the DVR, after displaying the teaser.

As discussed with the Examiner in the above-cited telephone interview, Zigmond does not teach or disclose that the beginning portion of the commercial break is of a particular length of time and has been authored to provide a teaser to entice a viewer to watch commercials during the commercial break before the viewer causes the DVR to skip through the commercial break because as Zigmond explains in col. 16, lines 30-43 and col. 16, line 65-col. 17, line 9, Zigmond specifically cuts away from the video programming and does not pay attention to the video programming content.

Zigmond further does not teach or disclose pausing playing of the program segment, by the DVR, after displaying the teaser as cited in Claim 1 because, as Zigmond explains in col. 16, lines 30-43 (emphasis added):

“In yet another embodiment, advertisements are selected and inserted into a video programming stream without regard to the position of the conventional advertising slot. Instead of an appropriate time determined by the content of the programming or by any other desired criteria, the video programming is interrupted and one or more selected advertisements are displayed. In this embodiment a delay code is embedded in the video programming, which functions to delay or pause the programming during the length of the advertisements. Once the advertisements are completed, the paused programming resumes. From the standpoint of the viewer, such ad insertion appears to be no different than the other embodiments of the invention.”

Zigmond specifically states that his embodiment does not have any regard to the position of the conventional advertising slot or whether it is an appropriate time to display advertisements as determined by the content of the programming. Therefore, Zigmond cannot teach or disclose

pausing playing of the program segment, by the DVR, after displaying the teaser as cited in Claim 1 because Zigmond does not pay attention to the content of the video programming, but instead inserts advertisements at any time. Thus, Zigmond does not display a teaser that exists in the program segment as cited in Claim 1 and further does not pausing playing of the program segment after displaying the teaser as cited in Claim 1.

Further, Zigmond does not teach or disclose receiving, by a digital video recorder (DVR), a program segment containing a beginning portion of a commercial break because Zigmond does not teach or disclose wherein the beginning portion of the commercial break is of a particular length of time and has been authored to provide a teaser to entice a viewer to watch commercials during the commercial break before the viewer causes the DVR to skip through the commercial break. Additionally, because Zigmond does not teach or disclose the aforementioned feature, Zigmond cannot teach or disclose displaying the beginning portion of the commercial break in the program segment as cited in Claim 1 because, as also discussed above, Zigmond does not pay attention to the content of the video programming and does not know what the beginning portion of the commercial break in the program segment is or when it is displayed.

In a proper rejection under § 102(e) the cited reference must show each and every claimed feature in the same combination as arranged in the claim. See Lewmar Marine, Inc. v. Barient, Inc., 827 F.2d 744, 747-48, 3 USPQ2d 1766, 1768 (Fed. Cir. 1987). If even a single element or limitation is missing from the reference, anticipation is not found. Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983).

Zigmond therefore does not teach every aspect of the claimed invention either explicitly or impliedly.

Claims 1 and 32 are allowable. Claims 2-3, 14, 18, 30-31 and 33-36 are dependent upon Claims 1 and 32, respectively, and are allowable. Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. 102(e).

Claim 16:

Claim 16 has been amended as discussed with the Examiner and appears as follows:

16. A process for enhancing viewership of television advertisements, comprising:
 - receiving, by a digital video recorder (DVR), a program segment containing a beginning portion of a commercial break;
 - displaying the beginning portion of the commercial break in the program segment;
 - wherein the beginning portion of the commercial break is of a particular length of time;
 - wherein the beginning portion of the commercial break is authored to cause a DVR to display a menu to a viewer;
 - pausing playback of the program segment, by the DVR, while displaying the menu; and
 - wherein the viewer is allowed to either skip past the menu and continue viewing the program segment, thereby causing the DVR to unpause the playback of the program segment, or select a particular item in the menu.

As discussed above, Zigmond does not teach or disclose receiving, by a digital video recorder (DVR), a program segment containing a beginning portion of a commercial break, displaying the beginning portion of the commercial break in the program segment, wherein the beginning portion of the commercial break is of a particular length of time, and wherein the beginning portion of the commercial break is authored to cause a DVR to display a menu to a viewer. Zigmond does not does not pay attention to the content of the video programming and does not know what the beginning portion of the commercial break in the program segment is or when it is displayed.

Additionally, Zigmond does not teach or disclose pausing playback of the program segment, by the DVR, while displaying the menu because Zigmond does not contemplate that a

program segment contains a beginning portion of a commercial break and the beginning portion of the commercial break is authored to cause a DVR to display a menu to a viewer.

Further, Zigmond does not teach or disclose wherein the viewer is allowed to either skip past the menu and continue viewing the program segment, thereby causing the DVR to unpause the playback of the program segment, or select a particular item in the menu as cited in Claim 16. Zigmond makes no such distinction. The Office Action points to col. 16, line 65-col. 17, line 9, however, Zigmond's system displays two advertisements and if the viewer does not select one of the advertisements, Zigmond states that a default or machine-selected ad can be displayed if no selection is made. Therefore, Zigmond does not allow the viewer to skip his advertisements. Given that Zigmond does not teach or disclose that Zigmond describes that a program segment contains a beginning portion of a commercial break and the beginning portion of the commercial break is authored to cause a DVR to display a menu, Zigmond cannot teach or disclose wherein the viewer is allowed to either skip past the menu and continue viewing the program segment, thereby causing the DVR to unpause the playback of the program segment, or select a particular item in the menu as cited in Claim 16.

Zigmond therefore does not teach every aspect of the claimed invention either explicitly or impliedly.

Claim 16 is allowable. Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. 102(e).

II. CONCLUSION

Applicants respectfully requests that a timely Notice of Allowance be issued in this case.

The Applicants believe that all issues raised in the Office Action have been addressed and that allowance of the pending claims is appropriate. Entry of the amendments herein and further examination on the merits are respectfully requested.

The Examiner is invited to telephone the undersigned at (408) 414-1214 to discuss any issue that may advance prosecution.

To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. § 1.136. The Commissioner is authorized to charge any fee that may be due in connection with this Reply to our Deposit Account No. 50-1302.

Respectfully submitted,

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